



Unofficial Translation
By Financial Markets International, Inc. (FMI)



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[To be Applicable in West Bank and Gaza]

Section 4

Attachment and Foreclosure of Immovable Properties

1. Attachment Procedures and related Notifications and Limitations

Article 113

1. The foreclosure on the debtors' immovable properties shall start by a decision rendered by the Enforcement Judge upon the creditor's request, which must include the type of the Enforcement document, its date, the amount of debt claimed, the notification date of the document to the debtor, and a statement describing the immovable properties requested for attachment, i.e its location, area, borders, and numbers, and any other information useful for its designation, according to the applicable Laws.
2. The Enforcement Department shall notify the competent department of such decision in order to mark the record of these properties to prevent it from being conveyed to others. The Notice shall clarify the nature of the related possessory-restrictions in this respect.

Article 114

1. Attachment and foreclosure on debtors' attachable immovable properties to settle debts decided by a Court of Law or attached to an executive instrument, shall be allowed even if the properties were not registered at the Registration Departments, provided that the following conditions are observed:
 - a. That the creditor submits an application to the Land Department in order to register the immovable property in the name of the debtor;
 - b. That the Department records the application in a special registry upon receiving certified copy of the Court Decision from the creditor, or upon receiving any other documents in the creditor's possession requested by the Land Czar, and paying the required fees in both cases;
 - c. That an investigation is carried out concerning the acts of the debtor subject of the foreclosure, in the manner prescribed and in the form designated by the Laws and Regulations pertaining to the New Registration Transactions.

2. Upon concluding the above-mentioned procedures, foreclosure procedures shall commence in accordance with the procedures prescribed in this Law. The Enforcement Department shall deduct the registration expenses incurred by the creditor from the price of the properties.

Article 115

By using Notice Papers, the Enforcement Department shall notify the debtor concerning all procedures it took in compliance with the two previous Articles. The Notice shall draw the attention of the debtor that if he/she did not pay the debt within one week from the date of his/her notification, the Land Registration Department shall commence the foreclosure procedures by selling the immovable properties specified in the Notice.

Article 116

1. Upon the termination of period prescribed in the previous Article and with the default of the debtor to pay the debt, the Enforcement Department shall carry out the seizure procedures through the Officer In-charge of Enforcement. The Officer shall move to the site and shall execute a proceeding transcript signed by him and by the all attendants. The proceeding transcript shall indicate the type of the seized property, its description, its borders, its contents, its area, the name of the neighborhood where it is located or the village, its number, the conditions of the plantations and their ripeness date, the persons residing in and the nature of the documents they base their residence on, the estimated value of the seized property according to the estimates of the execution Officer In-charge of Enforcement together with one expert or more.
2. A copy of the seizure proceeding transcript shall be given to the owner of the seized property, if present, but if the seizure was carried out in his/her absence, such owner shall be notified of such proceedings within the next day, at the most.

Article 117

1. The harvest and revenues of the immovable properties shall be attached to it for the period subsequent to its attachment.
2. The Enforcement Judge may, whether on his own merit or upon the request of the seizing creditor, assign one of the Officers In-charge of Enforcement, or any of the other clerks of the Department to harvest the crops, pick and sell the fruits.
3. The crops and fruits shall be sold by auction or by any other way the Enforcement Judge may decide. The proceeds thereof shall be deposited in the treasury of the Enforcement Department.

Article 118

1. If the immovable property was not rented, the debtor is deemed to be the custodian of the property, unless otherwise dismissed or limited by the Enforcement Judge as a result of his/her acts that caused damages to the property, or as a result of any acts that the debtors took causing value losses, or if the debtor prevented those who request to buy the property from examining it;
2. The debtor, being a resident of the real estate, may continue his residency without paying a rent until the real estate has been sold;
3. If the immovable property was rented, the due rent for the period following the seizure shall be considered seized by the tenant immediately after being notified by the Enforcement Department not to pay the rent to the debtor; and,
4. If the tenant paid the rent before being notified by the Enforcement Department, the payment shall be deemed legal; albeit, the debtor shall be deemed the custodian of these payments.

Article 119

1. The Enforcement Judge may decide and order to postpone the sale of the seized property if the net income of the debtors' immovable properties over the period of one year were enough to settle the debts of the seized properties, and if the creditor was commissioned to collect this income. However, the creditor of a priority right debt may request to reverse the delay of sale if it was not possible for the seizing creditor to collect the income in a timely manner, or if after such commissioning to collect the income an incident prevented him/her from collecting his/her rights. Notwithstanding any delay of sale, the attachment shall not be lifted from the seized property, and it shall remain seized until the debt is paid, in full.
2. If the debtor claimed that he/she has reasonable properties to settle debt if being granted a delay, and if selling of his immovable properties will cause him inappropriate adversity; the Enforcement Judge shall summon the two parties and hear their statements, and if convinced by the debtor's allegations, render a decision postponing the sale for a maximum period of 6 months, or paying the debt, which the seizure was carried out to its credit, on installments, within a period not exceeding one year, without lifting the attachment on the properties until the debt is paid, in full.

Article 120

The Enforcement Judge may allow, by way of a decision, the debtor to sell or convey the attached immovable properties to other persons, provided that the debtor shall, at the time of selling or conveyance of the property, deduct the debt decided by the court and all other fees and expenses.

Article 121

Holders of debts not secured by an immovable property mortgaged by others, may demand the sale of the seized property despite being mortgaged as previously mentioned. However, holders of mortgages shall have the priority to be paid first, and the remaining amounts shall be distributed among other seizing parties, according to the provisions of this Law.

2. Sale Conditions and Objections there against

Article 122

1. The Enforcement Department shall, within 30 days from the date of attachment organize a List setting the conditions for selling the seized immovable properties.
2. The List shall include the following information:
 - a. The Enforcement instrument used to carried out the attachment procedures;
 - b. The date the debtor was notified with the attachment decision, the date of attachment, and the notification date of the debtor;
 - c. Designation of the seized immovable properties in the seizure proceeding transcript i.e. its type, description, location, borders and area;
 - d. The sale terms, the basic price specified in the seizure proceeding transcript;
 - e. Division of the seized immovable properties into transactions, if possible, and stating the basic price for each transaction; and,
 - f. Stating the date of objection session and the date of auction.

Article 123

The following documents shall be enclosed with the List of Sale Conditions:

- a. A certificate stating the tax and fees prescribed for the seized immovable properties;
- b. The instrument used for the commencement of the Enforcement procedures;

- c. The decision of the Enforcement Judge laying the attachment and the notification of the debtor of such decision;
- d. The attachment proceeding transcript, and its notification to the debtor; and,
- e. A certificate of the possessory restrictions concerning such—properties from the competent department.

Article 124

1. Within the next 3 days after preparing the List of Sale Conditions, the Enforcement Department shall, pursuant to the provisions of Article 113, notify such List to the seized debtor, the seizing creditor and all creditors, whom the seized property was put as security for their debts, before issuing the seizing decision and its official endorsement.
2. The notification paper shall include the following information:
 - a. The date of regulating the List of Sale Conditions;
 - b. The overall designation of the seized immovable properties and stating its basic price;
 - c. The date of the session designated for hearing possible objections against the List, and stating time of session, the auction date and time in case no pleadings were filed against the List;
 - d. Forewarning the notified parties concerning the List, and warning them that they may examine the List and present there possible nullifying causes or remarks by means of filing an objection against such List at least 3 days before the session prescribed in the previous Article, otherwise their rights for filing such objections shall terminate.

Article 125

The List of Sale must include the date of hearing, and the objections against it before the Enforcement Judge, provided that such date shall be, at least, 30 days after the prescribed date in the previous paragraph has lapsed. The time between this session and the auction session shall not be less than 30 days or more than 60 days. If no objections were filed, the assignment of the first of either sessions shall be deemed as if never happened and the procedures for announcing the auction shall be carried out.

Article 126

1. The Enforcement Department shall announce the preparation of the List by publishing a public notice in one of the daily newspapers and by hanging it on the Bulletin Board of the Department Office during the next 7 days of the notifications referred to in Article 124. The hanging of the proceeding Transcript and a copy of the newspaper shall be put in the Enforcement file within the next 7 days of the above-mentioned announcement.
2. Every person shall have the right to examine the List of Sale Conditions at the Enforcement Department.

Article 127

1. The debtor and the creditors mentioned in Article 134 shall present their nullifying claims against previous procedures or their remarks concerning the Sale Conditions by reporting it to the Enforcement Department, at least 3 days before the designated hearing session. Otherwise, their right for holding such pleadings and remarks shall terminate;
2. Any interested party other than those mentioned in the previous paragraph, shall be allowed to present his/her nullifying claims or remarks by means of plea against the List or by means of third party's intervention at the time of hearing the objections.

3. Auction (Selling) Procedures

Article 128

1. Pursuant to the provisions of Article 4, the Enforcement Department having jurisdiction on the property shall conduct the auction procedures;
2. The Enforcement Judge of the Province, upon the request of the creditors mentioned in Article 124, shall determine the date of the auction session, further the Enforcement Judge shall only issue the order after making sure that all presented objections against the List have been finally decided by way of final decisions.
3. The Enforcement Department shall notify the parties mentioned in Article 124 with the date of auction and its location, at least 7 days before the date designated for such auction.

Article 129

Any kind of agreement that may be reached between both parties to carry out the auction in violation of the legal provisions prescribed in this Law shall not be taken into consideration, and it shall be considered null and void. On the other hand, the debtor may waive his right with regard to the notifications granted to him/her by virtue of this Law.

Article 130

1. The Enforcement Department shall announce the auction by way of publication and hanging, 30 days before the designated date.
2. In places where more than one newspaper are circulated, the announcements shall be published in one newspaper or more newspapers as may be deemed requisite, and a copy of such announcements shall be hanged in the Clerk office of the Enforcement Department, on the door of the seized real estate, and in any crowded place. The Enforcement Department may announce auction by any other way if the immovable property, put for sale, is of big value, or if otherwise deemed necessary.
3. The announcement shall include a description of the immovable property and its present statuses at the time of seizure, names and nicknames of the two parties, the time designated for auction, and the conditions for participating in such auction.
4. After preparing the auction List and publishing the matter, the auctioneer, or the seizure officer, shall at least call 3 times in crowded places and in the place where the real estate is situated, and then the proceedings shall be recorded on the back of the List.

Article 131

The auction shall be deemed open starting from the announcement date. All interested parties participating in the auction shall consult the Enforcement Department and shall only do so after paying a deposit of 10 per cent of the basic price specified in the List. After the lapse of 30 days, the sold property shall be Temporarily Transferred to the highest bidder. These procedures shall be recorded in the auction List and shall be certified by the Enforcement Officer.

Article 132

1. After concluding the temporarily-transference, the proceedings shall be announced once again. The announcement shall include a statement of completing the temporarily-transference procedures, a statement of the value of the last bid consideration, and the date and time of the final auction. Starting from the date of the second announcement, the auction shall be considered opened for the second time for 15 days. Any person willing to participate in this auction shall put a deposit of 5 per cent of the consideration prescribed in the Temporarily-Transference.
2. The auction between the attending two parties shall be conducted at the date specified in the second announcement. The Enforcement Judge shall decide to Finally Transfer the property to the highest bidder. The decision shall be filed into the Enforcement File.

Article 133

1. One day after the Final Transfer day, the debtor shall be notified, by way of Notice, concerning the outcome of the last auctions and the Final Transfer decision. In addition, the debtor must be forewarned to pay or to be present at the Registration Department in order to execute the sale and conveyance in the presence of the competent officer within 15 days of the notification date. If that date elapsed and the debtor did not settle his debt nor willingly executed the sale and transfer of title to the purchaser, a written application shall be addressed to the Registration Department to carry out the sale or conveyance to the purchaser;
2. If the debtor pays his debt in addition to the enforcement expenses before the completion of transfer of title, the issued registration order shall be cancelled and shall be considered as if never issued.
3. After the completion of the transfer of title as previously indicated, the decision of sale or conveyance shall not be cancelled if the debtor declared the willingness to settle his debt.

Article 134

The Enforcement Judge shall extend the auction period for a period not exceeding 45 days if the consideration offered as a result of the auction of the immovable properties is far less than the basic price prescribed in the auction list. Upon the lapse of this period, the consideration bid at that time shall be inevitably enough to close the sale or complete the conveyance.

Article 135

The real estate shall be offered to the second highest bidder in return for the consideration he /she bid if the bidder, for whom the real estate was finally transferred, declined to accept the conveyance and to pay the consideration. If the second highest bidder decided to accept the offer, the Enforcement Department shall fine the declining applicant to pay the difference between the two considerations, from the paid deposit, and if not enough, then from his other properties. But, if the second highest bidder insisted on his quitance, then the real estate shall be put for auction once again for a period of 15 days. The Enforcement Department shall fine the declining highest bidder to pay the difference between the two auctions.

Article 136

If an applicant, after the Final Transfer and before the lapse of the period of the last notification date to the debtor mentioned in Article 133, submitted an application and

enclosed 10 per cent or more of the consideration in order to join the auction; such conjoining request shall be accepted and the auction shall be carried out once again, for another 3 days, between this applicant, other bidder or bidders, and any bidder who became the beneficiary of the Final Transfer. Thereafter, the Final Transfer shall be given to the highest bidder.

Article 137

1. The Enforcement Department shall immediately complete the conveyance of the real estates Finally Transferred, however, the purchaser may revoke the auction if the completion of such conveyance was not possible within a month. The Enforcement Department shall notify the occupants of the real estate, by sending them a notice, forewarning them that they have to vacate and hand over such real estate within 15 days. By the end of such period, the Enforcement Department shall carry out the handing over of the property.
2. No objection may be filed after one month from the date of the sale or conveyance of real estate properties by way of auction concerning any formality mistakes, except objections made by minors, absentees, and incapacitated people. However, the occurrence of fraud or forgery in the Enforcement papers shall not be considered a formality mistake.

Article 138

1. In the case of handing over the immovable property to the purchaser and in solving the possible disputes with a third person, the status of such property at the time of its seizure by the Enforcement Department in preparation for selling it by auction, shall be taken into consideration.
2. Without prejudice to the provision of Article 118, rent contracts and other contracts related to utilizing the seized property, which were closed after the attachment, shall remain valid until the date of handing over of the property. After such date, the handing over of such property to its purchaser has to be executed without the need for another decision.
3. The additions made to the sold property, which took place after taking possession of the land, shall be inherently part of the seized property. The beneficiary of the foreclosure may not separate such additions from the sold property.

Article 139

If no agreement could be reached regarding the value of vegetables and the rest of fixed land crops in an immovable property, i.e. garden and a field, which are not part of the sale, the two parties shall be summoned to estimate the gross value of the property. Each party shall

assign an expert, and a third expert to be assigned by the Enforcement Judge, in order to carry out the estimation. Such immovable properties shall not be seized from its owner unless the purchaser pays, in advance, the value estimated by the experts.

4. Discontinuity of Procedures and its Indications

Article 140

If the auction was delayed as a result of legal causes or if was not followed up by the creditors; the auction shall be repeated once again for a another 15 days, but if the auction was overlooked for more than one year, all periods shall be deemed null and the process must be repeated all over again.

Article 141

No claims shall be heard from any person claiming disposition of immovable property put for auction to postpone the auction process unless being filed before rendering the Final Transfer decision, and before presenting a solvent surety against any damages and delay sustained by the creditor in that respect. Thereupon, the Enforcement Judge shall grant the applicant 15 days to obtain a decision from the competent court to postpone the auction. Otherwise, the court shall continue with the foreclosure process.

Article 142

The auction over the rest of the parts may be started once again, if a entitlement case was filed against part of the seized real estate and the court decided to postpone the auction

Article 143

If it was necessary to lift the attachment on immovable property executed by the Enforcement Department due to payback of part of the debt, or for any other reason, the Enforcement Department must check whether it was notified by a second Enforcement Department to single-out a share of the property's price at the time of sale. If yes, the first Enforcement Department must notify such Department in that respect before removing the attachment. The Enforcement Department may lift the attachment only after the lapse of 15 days after the notice and without receiving a relevant response.

Article 144

If for no legal excuse the creditor did not follow up the process for one year from the date of attachment, and if the person whose immovable property is seized submitted a petition in order to lift the attachment, the Enforcement Department must notify the seizing party concerning this matter. If the debtor's domicile was known, the Enforcement Department may decide to lift the seizure if it deems appropriate and just only after one month of the notification or announcement lapse without response

Chapter 3

Distributing the Proceeds of the Enforcement

Article 145

The proceeds of the properties collected from the debtor sold through the Enforcement Department must be divided among the creditors who submitted claims, from what is left after settling the debts of the holders of priority rights. The latter debts must have priority without having to submit a petition in that respect.

Article 146

If the collected proceeds mentioned in the previous Article were not sufficient to settle all the debts of the creditors, these proceeds shall be distributed according to the following order:

1. The holders of Priority Rights Debts according to their order of privilege and superiority;
2. If the creditors were of the same class and the existing properties were insufficient to settle all of such debts, the debt shall be divided among them *pro rata* (prorated); and,
3. If the existing properties exceed the debts of Priority-Rights creditors, the surplus shall be divided among the holders of regular debts *pro rata*.

Article 147

The prorated proceeds must be distributed among creditors after subtracting enforcement expenses incurred by the seizing creditor because of collecting such debts.

Article 148

If the enforcement papers included obligation for paying interest, the interest on matured sums of money shall be added to such money until such time the debtor has paid the debt to the Enforcement Officer or until the prices of the sold property have been received.

Article 149

If it was evident to the Enforcement Department that it has received from the debtor sums of money in excess of the sums he/she is obliged to pay to the creditor, the Enforcement Judge may decide to reimburse the debtor without having to obtain a decision from competent Court of Law in that respect.

Article 150

Seizure precedence shall not give its holder any privilege with regard to the rest of seizers. However, the beneficiary of the second decision shall not share with the beneficiary of the first decision the seized property, but he/she may collect his/her money from the remaining properties of the debtor if the second decision rendered by the court was taken on the basis and the grounds of verbal admission, abstention to make an oath, or the basis of written statement, which date was not officially proven to be before the date of the legal ground of the first decision.

Article 151

The sums of money that are collected from the debtor based on a decision rendered by the courts or based on the Enforcement Paper, shall be recorded and introduced in the ledger records to the creditor's credit. After concluding the record in the previously mentioned manner, such sums of money shall not be seized securing claimed debt.

Chapter 4

General Provisions

Section 1

Priority Rights and Classes

Article 152

The Priority Rights are either general or specific, depending on whether it includes the debtor's properties or part of it. Holders of debts of General Priority class shall have the priority to collect their debts from the debtor's properties before other creditors. Holders of debts of Specific Priorities class shall only collect their debts from the debtor's property securing the debt, and shall not have the priority with regard to other properties of the debtor

Article 153

The debts that are of General Priority are the following:

1. The alimony for the wife, children and parents rendered by a Court of Law;

2. The taxes and fees levied by the government regardless of its type, whether directly or indirectly levied;

All such debts shall be collected from the debtor's movable, immovable and cash properties, in priority over each other according to their degrees designated by the Laws and Orders issued in this regard. Other debts that the government requested from people shall not be of General Priority class.

Article 154

The debts that are of Specific Priority are the following:

1. The state taxes and fees imposed on the seized movable and immovable properties including fees, taxes, customs, land and property taxes and other taxes that are levied from the proceeds in a Specific Priority way;
2. The rent documented by a rental contract collected as a Priority Right from the attachable properties placed in the property;
3. The rent of productive lands such as farms, fields, and gardens documented by an instrument, shall have the priority over other debts and shall be collected from the harvest of such lands;
4. The due rent due to hotel owners collected before any other debt from the money deposited in such hotel.

Article 155

The priority rights on mortgaged property securing a loan shall be determined and regulated pursuant to the provisions of the Laws, Rules and Regulations.

Article 156

Holders of Specific Priority shall precede the holders of General Priority rights in collecting their debts.

Article 157

The Priority Rights shall not be established unless the nature of the debt and its type are explicitly and conclusively proven in the Enforcement Papers. Pleadings filed at the Enforcement Department in contradiction with its provisions or those are recently simulated, shall not be considered.

Article 158

The provisions of the Civil Law shall apply to all other matters not stipulated in this Law.